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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 17.7.2007.

Shyam Sunder and another .... Appellants.

vs

Gram Panchayat, Kudal, through its Sarpanch,
Tehsil Loharu, District Bhiwani. .... Respondent.

Coram Hon'ble Mr. Justice R.S.Madan.

Present: Mr.C.B.Kaushik,Advocate,for the appellants.
Mr.Jagat Singh,Advocate,for the respondent.

R.S.Madan, J.

This regular second appeal is directed against the judgment and decree dated 4.6.2004 passed by the learned District Judge, Bhiwani, vide which he dismissed the appeal of the plaintiff and upheld the judgment and decree of the trial court dated 31.1.2001.

Brief facts of the case are that the plaintiffs- appellants have filed a suit for declaration and permanent injunction in the court of Additional Civil Judge (Senior Division), Loharu, against the respondent Gram Panchayat, on the ground that they have become owners of the suit property as per Sections 5 and 8 of the Punjab Occupancy Tenant (Vesting of Proprietary Rights) Act, 1952, and they be recorded as owners of the suit property and entries in the revenue record be corrected. They claimed themselves to be the residents of Village Kudal, Tehsil Loharu, District Bhiwani and agriculturists, as their agricultural land was in possession of their father for the last 30 years on nominal rent of 9.55 ps. per annum, who was cultivating it as gair maurusi tenant. It was pleaded that as per the provisions of Sections 5 and 8 of the Act, they are entitled to be recorded as

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owners in the column of ownership.

The said suit was contested by the respondent by filing reply. Preliminary objections regarding non-joinder and mis-joinder of the necessary parties, maintainability of the suit, locus standi of the plaintiff-appellants as well as for non-service of notice on the respondent- Gram Panchayat as per the Panchayati Raj Act, were taken. Jurisdiction of the civil court was also questioned. Other averments made in the plaint were also denied.

On the pleadings of the parties, the learned trial court framed the following issues:-

1. Whether the plaintiffs have acquired occupancy tenants and ownership rights qua the suit land? OPP
2. Whether the plaintiffs have no cause of action to file the suit? OPD
3. Whether the civil suit is bad for want of notice? OPD
4. Whether the plaintiffs have not come to court with clean hands? OPD
5. Whether the suit is liable to be dismissed with special costs? OPD
6. Relief.

Both the parties led evidence before the trial court in support of their claim. After evaluating the evidence, learned trial court dismissed the suit of the plaintiffs- appellants,.

Aggrieved by the judgment and decree dated 31.1.2001 of the learned trial court, the plaintiffs preferred appeal before the learned District Judge, Bhiwani. Learned District Judge after reconsidering the evidence on record affirmed the findings recorded by the trial court.

Feeling dissatisfied with the judgments and decrees passed by

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the courts below, the appellants knocked the door of this Court by filing this regular second appeal.

I have heard the learned counsel for the parties.

Both the courts have recorded a concurrent finding of fact on all the issues by observing that the appellants are not owners of the suit land as occupancy tenant. In fact, it was observed that the land was given to their father on one year lease basis, as a tenant. But, thereafter, the same was taken back from him and leased out to various persons. This fact was proved by the Gram Panchayat through various resolutions passed by it. It was also proved by the Gram Panchayat that the suit land was given to the Forest Department for cultivation. The evidence led by the parties pertains to the facts only.

Learned counsel for the appellants was unable to disclose the substantial question of law involved in this appeal. As a result of this, this court has no option but to dismiss the appeal and it is ordered accordingly.

17.7.2007. (R.S.Madan)
vs. Judge.